

## **REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow. Claims 1-37 are now pending in this application. Claims 7, 8, 12-14, 17, 18, and 21-37 have been withdrawn from consideration.

### **Priority**

Applicant notes that not all boxes acknowledging Applicant's claim for foreign priority were checked in the Office Action Summary. Applicant respectfully requests that the Office acknowledge Applicant's claim for foreign priority by checking all boxes in the next Office correspondence, including the box noting that all certified copies of the priority documents have been received.

### **Traverse of Restriction**

The Office states on page 2 of the Office Action that the election was made without traverse. Applicant respectfully disagrees because the reply of April 17, 2009 clearly included a traversal of the lack of unity. Furthermore, the Office does not provide a proper basis for a finding of lack of unity or any comments in response to Applicant's traversal.

Applicants traverse the lack of unity finding set forth in the Office Action of March 17, 2009. The Office suggests on page 2 of this Office Action that only one apparatus and one process claim is permitted but does not provide any support in the PCT rules for such a requirement. PCT Rule 13, for example, does not set forth such a requirement.

Furthermore, the Office argues on pages 2-3 of the Office Action of March 17, 2009 that the common technical feature of the three inventions argued by the Office do not provide a contribution over the prior art and lists several references. However, the Office does not identify the common technical feature or where such a common technical feature is found in the prior art. Thus, the Office has not established a lack of unity finding. For at least these reasons, Applicants respectfully request that the lack of unity finding be withdrawn.

As noted in the reply of April 17, 2009, claims 1, 2, 15, 16, 19, and 20 are generic. Upon allowance of the elected claims, Applicants will be permitted to request rejoinder in accordance with MPEP 821.04.

**Finality of Office Action**

The Office states on page 5 of the Office Action that the Office Action was made Final because Applicant's amendments necessitated the new ground of rejection. Applicant respectfully disagrees. The amendments made to the claims rejected in the Office Action did not necessitate a new ground of rejection. The amendments made to claims did not alter the scope of the claims and were made in accordance with U.S. practice. These amendments did not necessitate the new grounds of rejection. Instead, a new ground of rejection was required because U.S. Pub. No. 2003/0067219 to Seto *et al.* does not anticipate the claims, as discussed in the response of December 4, 2008. The new ground of rejection provided in the current Office Action was made in an attempt to address the deficiencies of U.S. Pub. No. 2003/0067219 to Seto *et al.*, not because the amendments to the claims changed the scope of the claims and necessitated the new ground of rejection.

Because the claims amendments did not necessitate the new ground of rejection, the current Office Action should not have been made Final. Applicant respectfully requests that the Finality of this Office Action be withdrawn. In addition, should the Office issue another Office Action in response to this reply, which does not contain any claim amendments, such an additional Office Action should also be non-Final.

**Rejection under 35 U.S.C. § 103**

Claims 1-6, 9-11, 15, 16, 19, and 20 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Pub. No. 2003/0067219 to Seto *et al.* (hereafter "Seto") in view of U.S. Patent No. 6,926,374 to Dudeck *et al.* (hereafter "Dudeck"). This rejection is respectfully traversed.

Seto discloses an automatic brake system that includes a scanning type laser-radar that periodically scans a laser ray over an angle range to determine a vehicle interval distance. See

Seto at paragraphs 0019-0021. Seto discloses that based on information from the laser-radar, distances between the right rear edge of the preceding vehicle and the laser-radar, and between the left rear edge of the preceding vehicle and the laser-radar are determined, along with angles of the right and left rear edges of the preceding vehicle relative to the laser-radar. See Seto at paragraph 0024. A needed lateral move distance is calculated on the basis of this detected data. See Seto at paragraph 0024-0032.

However, as suggested on page 3 of the Office Action, Seto does not disclose or suggest that the system is configured to determine or provide a width of the preceding vehicle. Seto only discloses the use of the host vehicle's width when calculating a needed lateral moved distance to avoid a preceding vehicle, not the width of a preceding vehicle. See Seto at paragraphs 0026-0028. Therefore, Seto does not disclose or suggest a system for assisting a driver operating a vehicle traveling on a road comprising, among other things, a control arrangement configured to regulate at least one of a reaction force input to a driver and a force applied to a vehicle based on a determined risk and a width of a target obstacle, as recited in claim 1. Claims 15, 19, and 20 include similar language.

Dudeck discloses a system that determines a route to avoid an obstacle in front of a vehicle. See Dudeck at col. 4, lines 7-49. The lateral component of an avoidance path is based on the vehicle longitudinal speed, another longitudinal speed, a wheel base, and time. See Dudeck at col. 5, lines 8-16. Dudeck discloses that if an avoidance maneuver has to be carried out the lateral component of the avoidance path is evaluated so that a vehicle will drive around the obstacle reliably. See Dudeck at col. 5, lines 16-21. The avoidance path is evaluated by determining a minimum lateral component, which is the sum of half of the obstacle width and half of the vehicle width. See Dudeck at col. 5, lines 16-25, and claim 36. Dudeck teaches that an additional lateral safety distance is taken into account, when appropriate.

However, the teachings of Dudeck do not remedy the deficiencies of Seto because Dudeck only discloses calculating a lateral component of an avoidance path on the basis of vehicle longitudinal speed, another longitudinal speed, a wheel base, and time, not a determined risk and a width of a target obstacle. Dudeck also discloses evaluating the lateral

component of the avoidance path by summing half of the width of the obstacle and vehicle, but Dudeck does not disclose or suggest regulating at least one of a reaction force input to a driver and a force applied to the vehicle on the basis of a determined risk and the width of the obstacle, as recited in claims 1, 15, 19, and 20. Dudeck only discloses determining a minimum lateral component for an avoidance path on the basis of a width of an obstacle. Dudeck is silent in regard to regulating at least one of a reaction force and a force applied to a vehicle on the basis of a width of an obstacle, as recited in claims 1, 15, 19, and 20.

For at least the reasons discussed above, the combination of Seto and Dudeck fails to disclose or suggest all of the features of claims 1, 15, 19, and 20.

#### Claim 2

Claim 2 depends from claim 1 and is allowable over Seto and Dudeck for at least the reasons discussed above. Claim 2 further recites “wherein the control arrangement includes a controller configured to regulate the at least one of the reaction force input to the driver and the force applied to the vehicle in response to a control amount determined on the basis of the determined risk.”

As discussed above in regard to claims 1, 15, 19, and 20, Seto fails to disclose or suggest a system that measures a width of a target obstacle in a path of a vehicle. Nor does Seto disclose or suggest a control amount determined on the basis of a determined risk, as recited in claim 2. Dudeck fails to remedy the deficiencies of Seto.

For at least the reasons discussed above, the combination of Seto and Dudeck does not disclose or suggest all of the features of claim 2.

#### Claim 3

Claim 3 depends from claim 1 and is allowable over Seto and Dudeck for at least the reasons discussed above. Claim 3 further recites “wherein the device arrangement includes a width measurement device configured to measure a width of the target obstacle, and the control arrangement includes a correction device configured to correct the control amount on the basis of the measured width of the target obstacle.”

As discussed above in regard to claims 1, 15, 19, and 20, Seto fails to disclose or suggest a system that measures a width of a target obstacle in a path of a vehicle. Thus, Seto does not disclose a width measurement device. Nor does Seto disclose or suggest a control arrangement that is configured to correct a control amount on the basis of such a measured width. Dudeck fails to remedy the deficiencies of Seto in regard to claim 3 because Dudeck is also silent in regard to a correction device configured to correct a control amount on the basis of a measured width of a target obstacle, as recited in claim 3.

For at least the reasons discussed above, the combination of Seto and Dudeck does not disclose or suggest all of the features of claim 3.

#### Claim 5

Claim 5 depends from claim 1 and is allowable over Seto and Dudeck for at least the reasons discussed above. Claim 5 further recites “wherein the smaller the width of the target obstacle, the smaller the correction of the control amount.”

As discussed above in regard to claims 1, 15, 19, and 20, Seto fails to disclose or suggest a system that measures a width of a target obstacle in a path of a vehicle. Nor does Seto disclose or suggest that a correction of a control amount becomes smaller as the width of a target obstacle becomes smaller, as recited in claim 5. Dudeck fails to remedy the deficiencies of Seto.

For at least the reasons discussed above, the combination of Seto and Dudeck does not disclose or suggest all of the features of claim 5. Reconsideration and withdrawal of this rejection is respectfully requested.

#### Conclusion

Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date OCT 06 2009

By 

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 295-4011  
Facsimile: (202) 672-5399

Glenn Law  
Attorney for Applicant  
Registration No. 34,371

Kevin L. McHenry  
Attorney for Applicant  
Registration No. 62,582